THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No. 6925 OF 2007

Dated 5th April 2007

Between:

Marripalem Shaik Rehman

…Petitioners

and

The District Collector/Election Authority,
Guntur, Guntur District & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 6925 OF 2007

O R D E R:

The petitioners filed O.P (sr).No.39 of 2006, before the A.P. Co-operative Tribunal, Vijayawada, questioning the election of respondents 6 to 12, to the Managing Committee of the 5th respondent Cooperative society. They also filed M.P.No.2 of 2006, under Section 76(3) of A.P. Cooperative Societies Act, 1964 (for short "the Act"), read with Section 151 C.P.C., with a prayer to condone the delay of 202 days, infilling the O.P. The application was opposed by respondents 6 to 12, and it was dismissed.

Learned counsel for the petitioners submits that the petitioners approached the District Collector and the Divisional Registrar, complaining that the Managing Committee of the 5th respondent did not conduct elections, and during the course of the

enquiry and verification, it emerged that an election was said to have been conducted on 25.5.2005, wherein respondents 6 to 12 are elected. They state that soon thereafter, the election petition was filed, and since the limitation is prescribed under Rule 49-B of the A.P.Co-operative Societies Rules, 1964 (for short "the Rules"), the Miscellaneous Petition was filed. They submit that since there was no fault on the part of the petitioners, in pursuing the election petition, and that the delay ought to have been condoned.

Learned Government Pleader for Cooperation submits that the limitation stipulated under Rule 45 of the Rules, is absolute, and the question of condoning the same, does not arise.

It is not in dispute that a petition, challenging the election of an individual to the Managing Committee of the Cooperative Society, must be presented, within 30 days from the date of declaration of results, and Rule 49 of the Rules is very clear, on this aspect. Though the petitioners did not invoke Section 5 of the Limitation Act, in effect, they wanted the relief under that section. Rule 49 does not provide for condonation of delay, in presenting the Election Petition, beyond the period of limitation. When Section 5 of Limitation Act does not apply to Original Petitions and there is no provision in Rule 49, empowering the Tribunal to condone the delay, the very application filed by the petitioner was misconceived. The Tribunal rejected the application. This court does not find any basis, to interfere with the order passed by the Tribunal.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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5th April 2007

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